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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,519	01/12/2004	Anatol Wizenberg	1003-04	1394
35811 7590 07/17/2007 IP GROUP OF DLA PIPER US LLP ONE LIBERTY PLACE 1650 MARKET ST, SUITE 4900 PHILADELPHIA, PA 19103			EXAMINER NGUYEN, KIEN T	
			ART UNIT 3711	PAPER NUMBER
			MAIL DATE 07/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/755,519

Applicant(s)

WIZENBERG ET AL.

Examiner

Kien T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,7-17 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 7-17, and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The following office action is in response to the amendment after final filed on 12/07/06. The indicated allowability of claims 12-14 and 21 is withdrawn in view of a new interpretation of the prior of record. Furthermore, the amendment filed on 12/07/06 will NOT be entered and the following rejections are based on the amendment filed on 08/16/06.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 7, 9-12, 14-17, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Voorhis in view of Pembridge U.S. Patent 3,199,867.

Van Voorhis disclosed a toy comprising a shaft (1); a roller (2) attached to a first end of the shaft; the roller (2) is capable of being interchangeable via (3); a housing (5) attached to a second opposing end of the shaft; a front end (horse's mouth) coupled to the housing; a sound pad (8) coupled to the housing; the roller comprising at least one wheel (2) and an axle (3); at least one decorative member (strap) coupled to the housing. It is noted that Van Voorhis failed to specifically teach decorative member being coupled to the housing as being interchangeable and to resemble a jet, an automobile, and a wing as set forth in these claims. However, Pembridge disclosed a riding game device having at least one interchangeable decorative member (3), and other members resembling a plane (5) or a boat (4) as shown in Fig. 4. Accordingly, it

would have been obvious to one of ordinary skill in the art to modify the housing of Van Voorhis with a plurality of interchangeable decorative members to provide different looks for accommodating different users.

Regarding claims 14 and 15, the disclosure of Van Voorhis and Pembridge, and the above explanation would constitute the steps as recited.

Regarding claims 16, 17, 19, and 21, it would have been a matter of design choice to modify the rollers (2) of Van Voorhis to accommodate the specific housing such as an airplane, a boat, or a rocket.

Claims 4, 8, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Voorhis modified by Pembridge as applied to claim 1 above, and further in view of Thornell.

It is noted that the combination of Van Voorhis and Pembridge failed to teach the use of a light pad coupled to the housing as set forth in claim 4; and a handle coupled to the housing as set forth in claims 8 and 13. However, Thornell disclosed a rocking toy comprising a light pad (7) coupled to the housing (6) of the toy, and a handle (curved handle as shown in Fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art to modify the housing (5) of Van Voorhis as modified by Pembridge with the light pad (7) and the handle as taught by Thornell for the purpose of attracting attention of the user and controlling the head of the horse with ease.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (571) 272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kien T. Nguyen/
Kien T. Nguyen, Primary Examiner
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Ktn